
By: **Washington County Delegation**
Introduced and read first time: February 18, 2003
Assigned to: Rules and Executive Nominations
Re-referred to: Ways and Means, March 12, 2003

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2003

CHAPTER _____

1 AN ACT concerning

2 **Washington County Growth Management Act of 2003**

3 FOR the purpose of authorizing the County Commissioners of Washington County to
4 fix and impose, by ordinance, a building excise tax on all types of building
5 construction; requiring the County Commissioners to specify in the ordinance
6 the types of building construction subject to the building excise tax and the tax
7 rates; authorizing the County Commissioners to impose different tax rates of the
8 building excise tax based on the square footage of certain construction, housing
9 or building type, and certain zoning classifications; limiting the rate of the
10 building excise tax for a certain period of time; requiring the revenues from the
11 building excise tax to be deposited in a special fund; providing that the revenues
12 from the building excise tax may only be used for certain purposes; providing an
13 exemption from the building excise tax for certain construction intended for
14 agricultural or farm use under certain circumstances; authorizing the County
15 Commissioners to provide for certain exemptions to the building excise tax;
16 requiring municipal corporations in Washington County to assist the county in
17 the collection of the building excise tax within the municipal corporations;
18 authorizing the County Commissioners to fix and impose, by ordinance, a
19 transfer tax on certain instruments of writing; providing that the transfer tax
20 rate may not exceed a certain amount for certain fiscal years; requiring the
21 revenues from the transfer tax to be deposited in a special fund; requiring
22 certain transfer tax revenues to be used for certain agricultural land
23 preservation; providing that the revenues from the transfer tax may only be
24 used for certain purposes; providing certain exemptions from the transfer tax;
25 authorizing the County Commissioners to provide for certain exemptions to the
26 transfer tax; authorizing the governing body of Washington County to grant a
27 property tax credit against the county property tax imposed on renovated or

1 rehabilitated business real property located in a priority funding area, as
2 designated under certain provisions of law; authorizing the governing body of
3 Washington County to provide for certain conditions relating to the credit;
4 limiting the amount and duration of the credit; providing that the Clerk of the
5 Circuit Court for Washington County is not entitled to collect a certain fee for
6 collecting certain county transfer taxes under certain circumstances; repealing
7 certain authority for the County Commissioners of Washington County to
8 impose development impact fees; defining certain terms; providing for the
9 application of this Act; and generally relating to authorizing the County
10 Commissioners of Washington County to impose certain taxes.

11 BY repealing

12 Article 25 - County Commissioners
13 Section 9K
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2002 Supplement)

16 BY adding to

17 The Public Local Laws of Washington County
18 Section 2-701 and 2-702 to be under the new subtitle "Subtitle 7. Taxes"
19 Article 22 - Public Local Laws of Maryland
20 (1991 Edition and December 1997 Supplement, as amended)

21 BY repealing and reenacting, without amendments,

22 Article - Courts and Judicial Proceedings
23 Section 2-213(a)
24 Annotated Code of Maryland
25 (2002 Replacement Volume)

26 BY adding to

27 Article - Courts and Judicial Proceedings
28 Section 2-213(i)
29 Annotated Code of Maryland
30 (2002 Replacement Volume)

31 BY adding to

32 Article - Tax - Property
33 Section 9-323(e)
34 Annotated Code of Maryland
35 (2001 Replacement Volume and 2002 Supplement)

1 Preamble

2 WHEREAS, The citizens of Washington County seek to: (1) obtain the highest
3 quality in their schools, (2) have dependable access to public safety, and (3) protect
4 and preserve the rural quality of the county; and

5 WHEREAS, A recent facilities assessment of the Washington County schools
6 indicated 12 schools are suffering from inferior structural deficiencies -- 11 of which
7 are elementary schools -- and in drastic need of costly renovations; and

8 WHEREAS, The technology utilized for public safety is vastly outdated in
9 Washington County and the Sheriff's department is currently understaffed; and

10 WHEREAS, The citizens of Washington County envision a reasonable, planned
11 rate of growth for their county to ensure that future growth will not become
12 burdensome to the taxpayers of Washington County; and

13 WHEREAS, The importance of redevelopment throughout the urban areas of
14 Washington County is recognized as vital for economic development in Washington
15 County; and

16 WHEREAS, Washington County's agricultural heritage enhances the quality of
17 life and enriches the lives of all of its citizens; and

18 WHEREAS, The business of agriculture in Washington County provides
19 significant benefit to the community, and by preserving and nurturing its farmland,
20 Washington County achieves greater economic development in its urban areas by
21 containing sprawl throughout the rural parts of the county; now, therefore,

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 25 - County Commissioners**

25 [9K.

26 (a) In accordance with this section, the County Commissioners of Washington
27 County, by ordinance or resolution, may fix, impose, and collect development impact
28 fees for financing, in whole or in part, the capital costs of additional or expanded
29 public works, improvements, and facilities required to accommodate new construction
30 or development.

31 (b) Before the County Commissioners of Washington County may exercise the
32 authority provided under subsection (a) of this section, the County Commissioners
33 shall:

34 (1) Establish a department or division of public works for the County;

35 (2) Approve, at a formal meeting of the Board, an adequate facilities plan
36 for the County; and

1 (3) Approve and adopt a plan for periodic review and modification of the
2 county comprehensive plan and adequate facilities plan.

3 (c) (1) Prior to the adoption of the impact fee ordinance or resolution under
4 subsection (a) of this section, the County Commissioners shall hold a public hearing
5 on the proposal.

6 (2) At the hearing, the boundaries of the area that is to be subject to the
7 impact fee shall be fully described.

8 (d) Any impact fee imposed by the County Commissioners under this section
9 shall:

10 (1) Be levied only upon the property located within the district described
11 in the ordinance or resolution;

12 (2) Be used only for additional or expanded public works, improvements,
13 and facilities within that district; and

14 (3) Be returned pro rata, with interest, to the persons from whom the fee
15 was collected (or the successors or assigns of such persons), if the money is not spent
16 for the designated public works, improvements, and facilities within the district
17 within 5 years from the date the fee is collected.]

18 **Article 22 - Washington County**

19 **SUBTITLE 7. TAXES.**

20 2-701.

21 (A) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY, BY ORDINANCE,
22 MAY FIX, IMPOSE, AND COLLECT A BUILDING EXCISE TAX ON ANY BUILDING
23 CONSTRUCTION WITHIN WASHINGTON COUNTY.

24 (B) (1) THE COUNTY COMMISSIONERS SHALL SPECIFY IN THE ORDINANCE
25 THE:

26 (I) TYPES OF BUILDING CONSTRUCTION SUBJECT TO THE
27 BUILDING EXCISE TAX; AND

28 (II) TAX RATES.

29 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
30 COUNTY COMMISSIONERS MAY IMPOSE DIFFERENT RATES OF THE BUILDING EXCISE
31 TAX BASED ON:

32 (I) THE SQUARE FOOTAGE OF THE BUILDING;

33 (II) THE HOUSING OR BUILDING TYPE; AND

1 (III) ZONING CLASSIFICATIONS CONSISTENT WITH GOALS OF THE
2 COMPREHENSIVE PLAN OF WASHINGTON COUNTY.

3 (3) (I) FOR A FISCAL YEAR BEGINNING AFTER JUNE 30, 2003, BUT
4 BEFORE JULY 1, 2008, THE COUNTY COMMISSIONERS MAY IMPOSE A BUILDING
5 EXCISE TAX RATE NOT TO EXCEED \$1 PER SQUARE FOOT.

6 (II) FOR ~~ALL FISCAL YEARS~~ ANY FISCAL YEAR BEGINNING AFTER
7 JUNE 30, 2008, THE COUNTY COMMISSIONERS MAY SET THE BUILDING EXCISE TAX
8 RATE.

9 (C) (1) THE COUNTY DIRECTOR OF FINANCE SHALL DEPOSIT THE
10 REVENUES FROM THE BUILDING EXCISE TAX INTO A SPECIAL FUND.

11 (2) THE REVENUES FROM THE ~~BUILDING EXCISE TAX~~ SPECIAL FUND
12 MAY ONLY BE USED FOR:

13 (I) SCHOOL RENOVATION AND CONSTRUCTION;

14 (II) PUBLIC SAFETY CAPITAL EXPENDITURES;

15 (III) PUBLIC INFRASTRUCTURE PROJECTS; AND

16 (IV) DEBT REDUCTION.

17 (D) (1) THE BUILDING EXCISE TAX DOES NOT APPLY TO CONSTRUCTION
18 INTENDED TO BE ACTIVELY USED FOR FARM OR AGRICULTURAL USE SO LONG AS
19 THE CONSTRUCTION CONTINUES TO BE ACTIVELY USED FOR FARM OR
20 AGRICULTURAL USE.

21 (2) THE COUNTY COMMISSIONERS MAY PROVIDE FOR ADDITIONAL
22 EXEMPTIONS TO THE BUILDING EXCISE TAX.

23 (E) A MUNICIPAL CORPORATION WITHIN WASHINGTON COUNTY SHALL
24 ASSIST THE COUNTY COMMISSIONERS IN THE COLLECTION OF THE BUILDING
25 EXCISE TAX WITHIN THE MUNICIPAL CORPORATION BY:

26 (1) COLLECTING AND REMITTING THE TAX TO THE COUNTY; OR

27 (2) REQUIRING THE TAX TO BE PAID TO THE COUNTY COMMISSIONERS
28 IN ACCORDANCE WITH THE TERMS OF THE COUNTY ORDINANCE.

29 2-702.

30 (A) (1) IN THIS SECTION "INSTRUMENT OF WRITING" MEANS A WRITTEN
31 INSTRUMENT THAT CONVEYS TITLE TO, OR A LEASEHOLD INTEREST IN, REAL
32 PROPERTY.

33 (2) "INSTRUMENT OF WRITING" INCLUDES:

34 (I) A DEED OR CONTRACT;

- 1 (II) A LEASE;
- 2 (III) AN ASSIGNMENT OF A LESSEE'S INTEREST;
- 3 (IV) ARTICLES OF TRANSFER;
- 4 (V) ARTICLES OF MERGER OR OTHER DOCUMENT WHICH
5 EVIDENCES A MERGER OF FOREIGN CORPORATIONS OR FOREIGN LIMITED
6 PARTNERSHIPS; AND
- 7 (VI) ARTICLES OF CONSOLIDATION OR OTHER DOCUMENT WHICH
8 EVIDENCES A CONSOLIDATION OF FOREIGN CORPORATIONS.
- 9 (3) "INSTRUMENT OF WRITING" DOES NOT INCLUDE:
- 10 (I) A MORTGAGE, DEED OF TRUST, OR OTHER CONTRACT THAT
11 CREATES AN ENCUMBRANCE ON REAL PROPERTY; OR
- 12 (II) A SECURITY AGREEMENT, AS DEFINED IN § 12-101(E) OF THE
13 TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.
- 14 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY
15 COMMISSIONERS MAY FIX AND IMPOSE, BY ORDINANCE, A TRANSFER TAX ON AN
16 INSTRUMENT OF WRITING:
- 17 (I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR
18 WASHINGTON COUNTY; OR
- 19 (II) FILED WITH THE MARYLAND DEPARTMENT OF ASSESSMENTS
20 AND TAXATION.
- 21 (2) THE COUNTY COMMISSIONERS MAY NOT IMPOSE A TRANSFER TAX
22 UNLESS THE COUNTY IMPOSES A BUILDING EXCISE TAX AS AUTHORIZED UNDER §
23 2-701 OF THIS SUBTITLE.
- 24 (C) THE TRANSFER TAX RATE UNDER THIS SECTION:
- 25 (1) SHALL BE ESTABLISHED BY ORDINANCE; AND
- 26 (2) MAY NOT EXCEED:
- 27 (I) 0.5% FOR A FISCAL YEAR BEGINNING AFTER JUNE 30, 2003, BUT
28 BEFORE JULY 1, 2008; AND
- 29 (II) 1% FOR ~~ALL FISCAL YEARS~~ ANY FISCAL YEAR BEGINNING
30 AFTER JUNE 30, 2008.
- 31 (D) (1) THE COUNTY DIRECTOR OF FINANCE SHALL DEPOSIT THE
32 REVENUES FROM THE TRANSFER TAX INTO A SPECIAL FUND.

1 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
2 REVENUES FROM THE TRANSFER TAX MAY BE USED ONLY FOR:

3 (I) SCHOOL RENOVATION AND CONSTRUCTION;

4 (II) PUBLIC SAFETY, INCLUDING GRANTS AND LOANS TO
5 VOLUNTEER FIRE AND RESCUE COMPANIES FOR CAPITAL EXPENDITURES;

6 (III) TRANSPORTATION PROJECTS; AND

7 (IV) DEBT REDUCTION.

8 (3) FOR EACH FISCAL YEAR, AT LEAST \$400,000 OF THE REVENUES FROM
9 THE TRANSFER TAX SHALL BE USED FOR AGRICULTURAL LAND PRESERVATION AND
10 OTHER MEASURES TO ENHANCE THE VIABILITY OF AGRICULTURE IN WASHINGTON
11 COUNTY.

12 (E) (1) THE TRANSFER TAX DOES NOT APPLY TO:

13 (I) AN INSTRUMENT OF WRITING EXEMPT FROM THE STATE
14 TRANSFER TAX UNDER § 13-207 OF THE TAX - PROPERTY ARTICLE OF THE
15 ANNOTATED CODE OF MARYLAND; OR

16 (II) A TRANSFER OF LAND SUBJECT TO THE AGRICULTURAL LAND
17 TRANSFER TAX UNDER TITLE 13, SUBTITLE 3 OF THE TAX - PROPERTY ARTICLE OF
18 THE ANNOTATED CODE OF MARYLAND.

19 (2) THE COUNTY COMMISSIONERS MAY PROVIDE FOR ADDITIONAL
20 EXEMPTIONS TO THE TRANSFER TAX, INCLUDING, BUT NOT LIMITED TO,
21 EXEMPTIONS FOR:

22 (I) FIRST-TIME HOME BUYERS;

23 (II) SENIORS WHO ARE MOVING INTO LESS EXPENSIVE HOUSING;

24 (III) PROMOTING AFFORDABLE HOUSING; AND

25 (IV) REDEVELOPMENT OF PROPERTIES INSIDE THE URBAN
26 GROWTH AREAS OF THE COUNTY.

27 **Article - Courts and Judicial Proceedings**

28 2-213.

29 (a) Except as otherwise provided in this section, the clerk of a circuit court is
30 entitled to 5% of all public money that the clerk receives, collects, and pays over.

31 (I) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE
32 CLERK OF THE CIRCUIT COURT FOR WASHINGTON COUNTY IS NOT ENTITLED TO A
33 COLLECTION FEE FOR COLLECTING THE COUNTY TRANSFER TAX UNDER § 2-702 OF
34 THE PUBLIC LOCAL LAWS OF WASHINGTON COUNTY WHEN THE CLERK COLLECTS

1 BOTH THE RECORDATION TAX UNDER TITLE 12 OF THE TAX - PROPERTY ARTICLE
2 AND THE COUNTY TRANSFER TAX FOR THE FILING OF A SINGLE INSTRUMENT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Tax - Property**

6 9-323.

7 (E) (1) THE GOVERNING BODY OF WASHINGTON COUNTY MAY GRANT A
8 PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON
9 RENOVATED OR REHABILITATED BUSINESS REAL PROPERTY LOCATED IN A PRIORITY
10 FUNDING AREA AS DESIGNATED IN TITLE 5, SUBTITLE 7B OF THE STATE FINANCE
11 AND PROCUREMENT ARTICLE.

12 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
13 GOVERNING BODY OF THE COUNTY MAY PROVIDE, BY LAW, FOR:

14 (I) THE AMOUNT OF THE CREDIT;

15 (II) THE DURATION OF THE CREDIT; AND

16 (III) ANY OTHER PROVISION NECESSARY TO ADMINISTER THE
17 CREDIT.

18 (3) A TAX CREDIT UNDER THIS SUBSECTION MAY NOT EXCEED THE
19 AMOUNT OF ADDITIONAL PROPERTY TAX ASSESSED AS A RESULT OF THE
20 RENOVATION OR REHABILITATION.

21 (4) A TAX CREDIT UNDER THIS SUBSECTION IS AVAILABLE TO A
22 QUALIFIED PROPERTY FOR NO MORE THAN 5 YEARS.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
24 take effect June 1, 2003 and shall be applicable to all taxable years beginning after
25 June 30, 2003.

26 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
27 Section 3 of this Act, this Act shall take effect July 1, 2003.